

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

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| DENNIS MULHERN, | : | CASE NO. 5:06cv575 |
| Plaintiff, | : | |
| vs. | : | ORDER |
| BUREAU OF ALCOHOL, TOBACCO, | : | [Resolving Doc. No. 13] |
| FIREARMS AND EXPLOSIVES, et al., | : | |
| Defendants. | : | |

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On July 28, 2006, this Court ordered Plaintiff Dennis Mulhern to file an amended complaint in compliance with *United States v. 9.19 Acres of Land*, 416 F.2d 1244, 1245 (6th Cir. 1969). [Doc. 8.] The plaintiff originally filed a *pro se* suit on behalf of his hardware store against Defendant Bureau of Alcohol, Tobacco, Firearms and Explosives. As the Court explained in its earlier order, the plaintiff, a corporate officer, cannot represent his business in federal court. The Court granted the plaintiff two weeks to file an amended complaint, but the plaintiff failed to do so. Thus, on August 22, 2006, the Court dismissed the case without prejudice. [Doc. 9.]

On August 28, 2006, Plaintiff filed a Motion for Hearing. [Doc. 10.] The Court interpreted this as a motion to vacate judgment pursuant to FED. R. CIV. P. 60. On November 6, 2006, the Court granted this motion and ordered the plaintiff to re-file an amended complaint within fourteen days. [Doc. 11.]

On November 20, 2006, Plaintiff filed an Amended Complaint. [Doc. 12.] On November

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28, 2006, Defendant filed a Motion to Dismiss Amended Complaint. [Doc. 13.] Defendant argues that the amended complaint must be dismissed for the same reasons as the original complaint because the two documents are identical “except that the word ‘amended’ is handwritten next to the word ‘Complaint.’” Plaintiff has not filed a response to this motion.

Additionally, the amended complaint lists the plaintiff as “Dennis P. Mulhern,” suing on his own behalf, as opposed to “Dennis P. Mulhern dba Windham Hardware.” However, this difference is insignificant because the Federal Firearms License at issue was granted to Windham Hardware, Inc., not Mulhern in his personal capacity. The “aggrieved party” permitted to seek review of the Attorney General’s license revocation pursuant to 18 U.S.C. § 923(f)(3) is the previous holder of the license. Thus, in the instant case, only Windham Hardware, Inc. would have standing to bring suit. Once again, Mulhern, a corporate officer, cannot represent his business in federal court. *9.19 Acres of Land*, 416 F.2d at 1245.

As such, the Court **GRANTS** Defendant’s Motion to Dismiss Amended Complaint and **DISMISSES** this action without prejudice.

IT IS SO ORDERED.

Dated: January 9, 2007

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE